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85

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PART IV.

Section 1-A.

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

No. L.D. 1570—Legis. 3-51-39, dated Bangalore, 20th November 1951.

Ordered that the report of the Select Committee on the Notaries Bill, 1951 (Central Bill No. 42 of 1951), published in the *Gazette of India*, Part II, Section 3, dated the 20th October 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

66

(AS AMENDED BY THE SELECT COMMITTEE)

(Words sidelined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

BILL NO. 42 OF 1951

A Bill to regulate the profession of notaries.

BE it enacted by Parliament as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Notaries Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded ;

(*b*) "legal practitioner" means an advocate, vakil or attorney of the Supreme Court or of any High Court, or a pleader practising in any subordinate civil court ;

(*c*) "notary" means a person appointed as such under this Act :

Provided that for a period of one year from the commencement of this Act it includes also a person who, before such commencement, was appointed a notary public either under the Negotiable Instruments Act, 1881 (XXVI of 1881), or by the Master of Faculties in England, and is, immediately before such commencement, in practice in any part of the territories to which this Act extends ;

(*d*) "prescribed" means prescribed by rules made under this Act ;

(*e*) "Register" means a Register of Notaries maintained by the Government under section 4;

(*f*) "State Government" in relation to a Part C State means the Chief Commissioner.

3. *Power to appoint notaries.*—The Central Government, for the whole or any part of the territories to which this Act extends, and any State Government, for the whole or any part of the State, may, on such conditions, if any, as it thinks fit, appoint as notaries any legal practitioners or other persons who, in its opinion, are duly qualified to discharge the functions of a notary under this Act.

4. *Registers.*—(1) The Central Government and every State Government shall maintain, in such form as may be prescribed, a Register of the notaries appointed by that Government and entitled to practise as such under this Act.

(2) Every such Register shall include the following particulars about every notary whose name is entered therein, namely :—

(*a*) his full name, date of birth, residential and professional address ;

(*b*) the date on which his name is entered in the Register ;

(*c*) his qualifications ; and

(*d*) any other particulars which may be prescribed.

5. *Entry of names in the Register and issue or renewal of certificates of practice.*—(1) Every notary who intends to practise as such shall, on application to the Government appointing him and payment of the prescribed fee, if any, be netitled—

(*a*) to have his name entered in the Register maintained by that Government under section 4, and

(*b*) to a certificate authorising him to practise for a period of three years from the date on which the certificate is issued to him.

(2) Every such notary who wishes to continue to practise after the expiry of the period for which his certificate of practice has been issued under this section shall on application made to the Government appointing him and payment of the prescribed fee, if any, be entitled to have his certificate of practice renewed for three years at a time.

6. *Annual publication of lists of notaries.*—The Central Government and every State Government shall, during the month of January each year, publish in the Official Gazette a list of notaries appointed by that Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.

7. *Seal of notaries.*—Every notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.

8. *Functions of notaries.*—(1) A notary may do all or any of the following acts by virtue of his office namely :—

(*a*) verify, authenticate, certify or attest the execution of any instrument ;

(*b*) present any promissory note, hundi or bill of exchange for acceptance or payment ;

(*c*) note or protest the dishonour by non-acceptance or non-payment of any promissory note, hundi or bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881 (XXVI of 1881) or serve notice of such note or protest ;

(*d*) note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters ;

(*e*) administer oath to, take affidavit from, any person ;

(*f*) prepare bottomry and respondentia bonds, charter parties and other mercantile documents ;

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(*g*) prepare, attest or authenticate any instrument intended to take effect in any country or place outside the territories to which this Act extends in such form and language as may conform to the law of the place where such deed is intended to operate ;

(*h*) translate, and verify the translation of, any document from one language into another ;

(*i*) any other act which may be prescribed :

Provided that no notary shall do any act which he is not, under the terms of his appointment, authorised to do.

(2) No act specified in sub-section (1) shall be deemed to be a notarial act except when it is done by a notary under his signature and official seal.

9. *Bar of practice without certificate.*—(1) Subject to the provisions of this section, no person shall practise as a notary or do any notarial act under the official seal of a notary unless he holds a certificate of practice in force issued to him under section 5 :

Provided that the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary shall not be deemed to be a notarial act within the meaning of this sub-section.

(2) Nothing contained in sub-section (1) shall, until the expiry of one year from the commencement of this Act, apply to any such person as is referred to in the proviso to clause (*c*) of section 2.

10. *Removal of names from Register.*—The Government appointing any notary may, by order, remove from the Register maintained by it under section 4 the name of the notary if he—

(*a*) makes a request to that effect ; or

(*b*) has not paid any prescribed fee required to be paid by him ; or

(*c*) is an undischarged insolvent ; or

(*d*) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of the Government, renders him unfit to practise as a notary.

11. *Construction of references to notaries public in other laws.*—Any reference to a notary public in any other law shall be construed as a reference to a notary entitled to pract se under this Act.

12. *Penalty for falsely representing to be a notary, etc.*—Any person who—

(*a*) falsely represents that he is a notary without being appointed as such, or

(*b*) practises as a notary or does any notarial act in contravention of section 9,

shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

13. *Cognizance of offence.*—(1) No court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this Act save upon complaint in writing made by an officer authorised by the Central Government or a State Government by general or special order in this behalf.

(2) No magistrate other than a presidency magistrate or a magistrate of the first class shall try an offence punishable under this Act.

14. *Reciprocal arrangements for recognition of notarial acts done by foreign notaries.*—If the Central Government is satisfied that by the law or practice of any country or place outside the territories to which this Act extends, the notarial acts done by notaries within those territories are recognised for all or any limited purposes in that country or place, the Central Government, may by notification in the Official Gazette, declare that the notarial acts lawfully done by notaries within such country or place shall be recognised within the said territories for all purposes or, as the case may be, for such limited purposes as may be specified in the notification.

15. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the form and manner in which applications for appointment as a notary may be made and the disposal of such applications ;

(*b*) the certificates, testimonials or proofs as to character, integrity, ability and competence which any person applying for appointment as a notary may be required to furnish ;

(*c*) the fees payable for appointment as a notary and for the issue and renewal of a certificate of practice, and exemption from such fees in specified classes of cases ;

(*d*) the fees payable to a notary for doing any notarial act ;

(*e*) the form of Registers and the particulars to be entered therein ;

(*f*) the form and design of the seal of a notary ;

(*g*) the manner in which inquiries into allegations of professional or other misconduct of notaries may be made ;

(*h*) the acts which a notary may do in addition to those specified in section 8 and the manner in which a notary may perform his functions ;

(*i*) any other matter which has to be, or may be, prescribed.

16. *Repeal.*—Chapter XVII of the Negotiable Instruments Act, 1881 (XXVI of 1881), is hereby repealed.

M. N. KAUL,
Secretary.